

INDEPENDENT POLICE REVIEW AUTHORITY

14 AUGUST 2012

TO:

Chief Administrator
Independent Police Review Authority

FROM:

Inv. Michael Goldston, #109

SUBJECT:

LOG #1035738 / U#10-17

REFERENCE:

RD#HS-274-434/Aggravated Assault (Police Officer)
HS-275-050/Justifiable Homicide

OFFICER #1

INVOLVED:

GONZALEZ, Francisco, Police Officer, Star #16782, M/H,
Unit 153, Employee # [REDACTED], DOB: [REDACTED], DOA: 02
December 2002, On Duty, In Uniform.

OFFICER #1

INJURIES:

None reported.

OFFICER #2

INVOLVED:

BELCHER, Jesse, Police Officer, Star #11304, M/W,
Unit 153, Employee # [REDACTED], DOB: [REDACTED], DOA: 23
January 2006, On Duty, In Uniform.

OFFICER #2

INJURIES:

None reported.

OFFICER #3

INVOLVED:

CASCONE, James, Sergeant, Star #1488, M/W,
Unit 153, Employee # [REDACTED], DOB: [REDACTED] DOA: 31
May 1994, On Duty, In Uniform. Did not fire.

OFFICER #3

INJURIES:

None reported.

OFFICER #4

INVOLVED:

LOPEZ, Nelson, Police Officer, Star #3544, M/H,
Unit 153, Employee # [REDACTED], DOB: [REDACTED], DOA: 29
October 2001, On Duty, In Uniform. Did not fire.

OFFICER #4

INJURIES:

None reported.

SUBJECT: [REDACTED] M/B, DOB: 19 July 1991, 5300 South King Drive, #3B, Chicago.

SUBJECT'S INJURIES: Multiple gunshot wounds (deceased).

INITIAL INCIDENT: Attempted traffic stop for no front license plate.

DATE/TIME/ LOCATION OF INCIDENT: 24 April 2010, 2217 hours.

SUMMARY OF INCIDENT:

On 24 April 2010, members of the Mobile Strike Force (MSF) were in the vicinity of [REDACTED] South Indiana Avenue (200E) and attempted to conduct a traffic stop of a Buick with no front license plate. The MSF officers were in two marked squad cars operating together, with two officers in each vehicle. The driver of the Buick did not stop and turned east onto 61st Street. The subject, now known as [REDACTED] got out of the front passenger seat of the Buick holding a handgun. He turned toward the officers and began firing that weapon at the lead squad car. [REDACTED] walked east as he fired in the direction of the officers. The Buick continued east at the same time, keeping pace with [REDACTED]. Officer Jesse Belcher, the passenger officer in the lead vehicle (Beat 4490), fired his weapon at [REDACTED] through the windshield of that vehicle. Officer Francisco Gonzalez, the passenger officer in the rear vehicle (Beat 4490C), got out of that vehicle armed with a carbine. The two squad cars followed [REDACTED] and the Buick as they continued east. [REDACTED] fired his weapon in direction of the officers again and began running. Officer Belcher fired at [REDACTED] again from inside his vehicle and Officer Gonzalez, who was still outside his vehicle, fired his carbine at [REDACTED] fell to the ground on the parkway of [REDACTED] Avenue (300E), just south of 61st Street. A Glock semi-automatic nine millimeter pistol was recovered near [REDACTED]. The weapon was in the slide lock condition with an empty extended 17 round magazine inserted. Sixteen expended nine millimeter cartridge casings were also recovered at the scene. [REDACTED] was transported to Stroger Hospital where he died of his wounds. The front passenger tire of the lead squad car had bullet damage; that vehicle was taken to a Chicago Police Department (CPD) facility for further forensic processing. The Buick was later located abandoned in an alley and detectives spoke with the registered owner, [REDACTED] via telephone. [REDACTED] was in Minnesota and told the detectives that he had loaned his vehicle to his girlfriend, but was unable to provide any contact information for her.

¹ Identified via fingerprints.

INVESTIGATION:

At the **Roundtable**, Officer Belcher related an account that was consistent with the Summary of Incident. He stated that he was riding in the lead vehicle with Sergeant Cascone, who was driving. Officer Belcher did not know why Sergeant Cascone wanted to stop the Buick, but their lights and siren were activated. When [REDACTED] got out of the Buick, he pointed his weapon directly at Officer Belcher in the front passenger seat of his squad car and began firing. Officer Belcher returned fire through the windshield, firing two to four times. After a pause, [REDACTED] fired again at Officer Belcher who again returned fire from inside his vehicle, firing two to four times through the front passenger window. Officer Belcher saw two other individuals in the Buick but neither of them got out. He was not aware of anyone else firing a weapon except himself and [REDACTED].

At the **Roundtable**, Sergeant Cascone related an account that was consistent with the Summary of Incident. He stated that he attempted to stop the Buick after seeing that it did not have a front license plate. He activated his emergency lights but the Buick did not stop. The driver of the Buick did not accelerate, but rather slowed several times while on Indiana Avenue. Sergeant Cascone thought someone might get out of the Buick and run so he and the other officers prepared for a foot pursuit. When [REDACTED] got out of the Buick he fired eight to ten shots at the officers. The passenger door of the Buick remained open and the driver continued east, keeping pace with [REDACTED]. [REDACTED] turned and fired additional shots at the officers and Officer Belcher returned fire through the windshield of their vehicle. Sergeant Cascone heard, but did not see, Officer Gonzalez fire at [REDACTED] who began running and fell to the ground.

At the **Roundtable**, Officer Gonzalez related an account that was consistent with the Summary of Incident. He stated that he and Officer Lopez were in the rear vehicle during the attempted traffic stop. He was the passenger officer in his vehicle. Officer Gonzalez heard, but did not see, an exchange of gunfire. He got out of his vehicle with his carbine and saw [REDACTED] running east and firing a weapon at the lead squad car. [REDACTED] ran east and slightly south through a vacant lot. Officer Gonzalez raised his carbine and fired three rounds, then saw [REDACTED] fall to the ground.

At the **Roundtable**, Officer Lopez related an account that was consistent with the Summary of Incident. He stated that he and Officer Gonzalez were in communication via car-to-car radio with Sergeant Cascone and Officer Belcher in the lead vehicle. Officer Lopez saw [REDACTED] get out of the Buick, fire his weapon at the lead vehicle, and walk east on 61st Street. The Buick kept pace with [REDACTED] before leaving the scene at some point. [REDACTED] began running east and fired at the lead vehicle again. Officer Gonzalez got out of their vehicle with his carbine and fired several shots at [REDACTED].

Detective David Cavazos, #20312, Unit 620 related to the **Roundtable** that he responded to Stroger Hospital and observed several staff members attend to [REDACTED]. Detective Cavazos spoke to the paramedics and police officers who rode in the ambulance with

[REDACTED] and they reported that [REDACTED] did not make any statements to them. [REDACTED] went into surgery at 0020 hours and died as a result of multiple gunshot wounds. Doctor Bokhari pronounced him dead at 0110 hours. Detective Cavazos observed [REDACTED] injuries: gunshot wounds to the right upper shoulder/clavicle, left side near the ribs and right upper buttock. An injury on the right side of [REDACTED] back under the shoulder blade could not be identified as a gunshot wound. The gunshot wound paths were unclear. (Att. 4)²

A **canvass** was conducted in an attempt to locate witnesses to the incident without success. [REDACTED] mother informed this office that she knew the identity of witnesses to the incident, but efforts to obtain that information from her were also unsuccessful. (Atts. 27, 41, 47, 63, 64)

The **General Offense Case Reports** included an account of the incident that is consistent with the Summary of Incident. (Atts. 42, 76)

Officer Belcher's **Tactical Response Report** indicates that [REDACTED] fired multiple shots at him from over 15 feet away from him. Officer Belcher then returned fire, discharging his weapon five times. (Att. 6)

Officer Gonzalez' **Tactical Response Report** indicates that [REDACTED] fired a semi-automatic handgun at the officers from over 15 feet away. Officer Gonzalez returned fire discharging his weapon three times, striking [REDACTED] (Att. 10)

The **Case Supplementary Report** includes accounts of the incident from Officers Belcher and Gonzalez that are consistent with the Summary of Incident. That report indicates that Officer Belcher related that the first time he discharged his weapon at [REDACTED] after [REDACTED] fired at the officers, he fired three or four shots through the windshield. As [REDACTED] continued to fire in the direction of the officers, now while running, Officer Belcher fired two to three times through the passenger side window of the squad car. [REDACTED] weapon, containing a 17 round magazine, was recovered at the scene. It was empty and in the slide-lock condition. It was not registered and had not been reported as lost or stolen. A canvass did not result in any witnesses to the incident. Detectives interviewed the owner of the recovered Buick, [REDACTED] and he stated that he last saw it when he parked it on the street. He speculated that the vehicle may have been stolen for its expensive tire rims. [REDACTED] told detectives that on the date of incident he was in Minnesota. When shown a photograph of [REDACTED] said that he had never seen him before and had no idea who he was. (Att. 78)

The **Crime Scene Processing Reports** indicate that a Glock Model 19 nine millimeter semi-automatic pistol was inventoried and identified as [REDACTED] weapon. A Glock Model 22 .40 caliber semi-automatic pistol was inventoried and identified as Officer

² An issue arose during the preliminary investigation regarding Officer Gonzalez carrying his carbine in the passenger compartment of the vehicle in which he was riding. That issue was investigated and addressed in Log number 1056079.

Belcher's weapon. An LWRC Model 6A2 5.56 carbine was inventoried and identified as Officer Gonzalez' weapon. The following expended cartridge casings were inventoried: 16 nine millimeter, six .40 caliber, and three 5.56 (.223). All three weapons were swabbed for DNA evidence. (Att. 34)

The Chicago Fire Department (CFD) Emergency Medical Services (EMS) **Incident Report** indicates that EMS personnel arrived at the scene and found [REDACTED] handcuffed and lying on the ground. They placed him on a backboard and he began to move around, trying to get off the board; he then kept moving on the stretcher. CPD personnel then handcuffed [REDACTED] to the stretcher and he calmed down after a few minutes. [REDACTED] had a gunshot wound to his left mid-axillary³ and another to his right clavicle. They transported [REDACTED] to the hospital accompanied by police. (Att. 98)

Medical records from Stroger Hospital indicate that [REDACTED] was diagnosed with multiple gunshot wounds and cardiopulmonary arrest. He arrived with wounds to his abdomen, thorax, and right buttock. He went into cardiopulmonary arrest upon entrance to the Operating Room. Efforts to resuscitate him were unsuccessful and he died, being pronounced at 0110 hours. (Att. 65)

The Office of Emergency Management and Communications (OEMC) **transmissions** document Beat 4490 reporting shots fired at and by the police. Beat 4490 indicates the offender down, no police injuries at the time, and requests medical assistance. That unit also provides a description of the Buick and its direction of flight. Other transmissions relate to the subsequent response and investigation. (Atts. 48 – 53)

An **Illinois State Police Division of Forensic Services (ISP) report** indicates that [REDACTED] weapon and magazine were examined and revealed no latent fingerprint impressions that were suitable for comparison. (Att. 70)

ISP reports indicate that Officers Belcher's and Gonzalez' weapons were examined, found to be in firing condition, and test fired. The expended .40 caliber casings were determined to have been fired from Officer Belcher's pistol and the 5.56 casings fired from Officer Gonzalez' carbine. [REDACTED] weapon was examined, found to be in firing condition and test fired. The serial number had been obliterated but lab personnel were able to restore it. All of the recovered nine millimeter casings were determined to have been fired from [REDACTED] weapon. The test shots were compared to the IBIS database, but no identification could be made. A fired nine millimeter/.38 caliber bullet was recovered from inside the front passenger tire of the lead squad car. Examination determined that it had not been fired from either officer's weapon but could not determine whether it was fired from [REDACTED] weapon.⁴ Additionally a lead bullet core and a fired bullet jacket fragment received from the Medical Examiner's (ME) Office

³ Middle of the armpit.

⁴ Although it could not be microscopically determined that this bullet was fired by [REDACTED] weapon, it is of the same general class with nine millimeter and .38 caliber having very similar diameters; 9.01 millimeters and 9.10 millimeters respectively.

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were not suitable for microscopic comparison but could not have been fired from Officer Belcher or Officer Gonzalez' weapon. (Atts. 69, 71, 72)

An ISP report indicates that results of a Scanning Electron Microscopy Primer Gunshot Residue (SEM/PGSR) kit administered to [REDACTED] indicated that he had "discharged a firearm, contacted a PGSR related item, or had the right hand in the environment of a discharged firearm". (Att. 72)

CPD Mobile Crime Laboratory photographs and video depict the scene and evidence. Evidence Technician photographs depict [REDACTED] and his injuries at Stroger Hospital. (Atts. 35, 38, 45)

The postmortem report documents [REDACTED] cause of death as multiple gunshot wounds and the manner as Homicide. Wound #1 entered his right upper back, causing internal trauma, and exited from the right side of his neck. A small copper jacket fragment was recovered from the right side of his neck. The exit wound was shored.⁵ Wound #2 entered [REDACTED] left lateral chest wall, causing internal trauma, and was found floating freely in his left chest cavity. Wound #3 entered [REDACTED] right buttock, causing internal trauma, and exited from his abdomen at the midline. No bullet was recovered. (Att. 96)

The toxicology report indicates that [REDACTED] blood tested negative for benzoyllecgonine⁶, ethanol, and opiates. (Att. 97)

A Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Firearms Trace Summary indicates that [REDACTED] weapon was purchased at a Riverdale, Illinois gun shop in January of 2009. (Att. 73)

Cook County court documents indicate that [REDACTED] mother filed a civil suit against the City of Chicago and unknown officers for wrongful death. In that document, as well as correspondence with [REDACTED] mother, reference is made to at least one witness to the incident. Efforts to obtain cooperation in identifying that individual(s) were unsuccessful. (Atts. 47, 74, 75,)

In a statement given to IPRA on 17 May 2010, Officer Belcher related that on 24 April 2010 just prior to 2217 hours he and Sergeant Cascone were working a two-car MSF mission in marked squad cars with Officers Gonzalez and Lopez in the second vehicle. Sergeant Cascone was driving; he and Officer Belcher had just refueled their vehicle at 6500 South State Street (0 East/West) and observed the Buick traveling north on State Street with no front license plate. Officer Belcher saw a photograph in the back window of the Buick. That photograph showed individuals flashing gang signs, or a gang funeral.

⁵ An exit wound with an abraded margin, more commonly present in entrance wounds. These wounds result from the skin being supported by some firm surface, including clothing, at the time of exit.

⁶ Major metabolite of cocaine.

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Sergeant Cascone and Officer Belcher activated their emergency lights to stop the Buick. It continued, then turned east on 63rd Street with Sergeant Cascone and Officer Belcher following. The Buick turned north on Indiana Avenue (200E) or [REDACTED] Avenue (300E).

When the Buick neared 61st Street, the driver started to pull over and the front passenger door began to open. Officer Belcher unclipped his seatbelt, thinking there might be a foot chase. At the same time [REDACTED] got out of the front passenger seat holding a handgun. He pointed it directly at Sergeant Cascone/Officer Belcher's squad car and immediately fired multiple shots from a distance of approximately 10-20 feet. [REDACTED] moved with the Buick as he fired at the squad car and did not attempt to flee the area. Officer Belcher slouched down in his seat to put the engine block between himself and [REDACTED]. He could still completely see [REDACTED] over the dashboard. After [REDACTED] initially fired immediately after getting out of the Buick, and after Officer Belcher slid down in his seat, there was a slight pause. Officer Belcher sat up and pointed his weapon at [REDACTED] who was still pointing the handgun at Sergeant Cascone and Officer Belcher. [REDACTED] appeared to be approaching their squad car and Officer Belcher fired two-to-four times at [REDACTED] through the windshield of the squad car. Once Officer Belcher began firing, [REDACTED] returned fire at him. [REDACTED] began moving toward a vacant lot on the southwest corner of 61st and [REDACTED] was turned sideways, pointing the handgun at Sergeant Cascone and Officer Belcher and firing at them but moving in the opposite direction. At that time, Officer Belcher again fired two-to-four shots at [REDACTED] – this time through the passenger side window of the squad car. [REDACTED] fell to the ground still holding the handgun. Sergeant Cascone and Officer Belcher got out of their vehicle, approached [REDACTED] and secured/handcuffed him. At that time, [REDACTED] weapon was on the ground next to him. Officer Belcher was not aware until later that Officer Gonzalez had also discharged a weapon during the incident. (Att. 84)

In a **statement** given to IPRA on 12 May 2010, Officer Gonzalez related that on 24 April 2010, he was the passenger officer in a squad car being driven by Officer Lopez. They were the second vehicle in a two-car team with Sergeant Cascone and Officer Belcher in the lead vehicle. After refueling their vehicles shortly before 2217 hours, Officer Gonzalez and Officer Lopez saw Sergeant Cascone and Officer Belcher activate their emergency lights in an effort to stop the Buick. Officer Lopez and Officer Gonzalez followed, behind the lead squad car. The driver of the Buick made a few turns, eventually arrived at 61st and [REDACTED] and stopped. Officer Gonzalez held "a bunch of shooting" and Officer Lopez stopped their vehicle. Officer Gonzalez got out of the squad car with his carbine in his hands. He saw [REDACTED] running and firing a handgun in the direction of Sergeant Cascone/Officer Belcher's vehicle. Officer Gonzalez raised his carbine and fired three times at [REDACTED] who kept firing at the squad car until he went down after Officer Gonzalez fired his last round. All of the officers converged on [REDACTED] who was still holding the handgun. They were able to secure [REDACTED] and his weapon, with Officer Lopez handcuffing him. Assisting units arrived along with an ambulance that transported [REDACTED] from the scene. Officer Gonzalez stated that he last

saw the Buick just before the driver stopped and [REDACTED] got out with the handgun. He did not see Officer Belcher fire his weapon and could not make the distinction between the sound of Officer Belcher's weapon and [REDACTED] weapon so he could not tell when Officer Belcher fired. (Att. 95)

In a **statement** given to IPRA on 02 June 2010, Sergeant Cascone related that he and Officer Belcher, in the lead squad car, attempted to stop the Buick. The driver continued, making turns and was eastbound on 61st Street from Indiana Avenue. During this action, the driver of the Buick slowed, giving the impression that the occupants were going to bail out of the vehicle. Approximately 100 feet from the intersection of 61st and Indiana, [REDACTED] quickly jumped out of the Buick, leaving the passenger door open. [REDACTED] was holding a handgun and without warning fired approximately 10 shots at Sergeant Cascone and Officer Belcher, striking their vehicle numerous times. The driver of the Buick continued east on 61st Street and [REDACTED] walked as he fired at the squad car, keeping pace with the Buick. Officer Belcher returned fire, discharging his weapon four/five times. After the initial shots fired by [REDACTED] he looked around as Sergeant Cascone continued to follow him and the Buick. [REDACTED] fired again at the lead squad car and Officer Belcher returned fire through the windshield. The driver of the Buick drove off leaving [REDACTED] in the middle of the street. Sergeant Cascone tried to cut off [REDACTED] escape with his vehicle; [REDACTED] started to run away and fired an additional six or seven times over his shoulder at Officer Belcher whose side of the squad car was now directly in the line of [REDACTED] fire. Officer Belcher returned fire again, this time through the passenger window of the squad car firing approximately two or three times. Sergeant Cascone saw [REDACTED] fall to the ground. He got out of his squad car and approached [REDACTED] who was holding a handgun in his hand and being handcuffed by Officer Lopez. Sergeant Cascone made notifications via radio and requested medical assistance for [REDACTED]. He also indicated that he heard Officer Gonzalez discharge his weapon during the incident. (Att. 91)

In a **statement** given to IPRA on 19 May 2010, Officer Lopez related that on 24 April 2010, Sergeant Cascone told him and Officer Gonzalez via car-to-car radio that he wanted to stop the Buick. Both squad cars had activated emergency lights, with Officer Lopez' car behind Sergeant Cascone's. The driver of the Buick did not stop and went east on 63rd Street to Indiana Avenue. That driver then turned north on Indiana to 61st Street, and turned right going east on 61st Street. Between Indiana and [REDACTED] Avenues, [REDACTED] got out of the Buick with a handgun, turned around, looked in the direction of the lead squad car, and started shooting at it. Officer Nelson noticed that while [REDACTED] was shooting he was walking fast and the Buick was keeping pace with him. [REDACTED] was moving east on 61st Street and south on [REDACTED] toward a vacant lot. At some point, Officer Gonzalez got out of their vehicle and fired possibly two to four shots at [REDACTED] from his carbine and [REDACTED] fell. Officer Lopez got out of his vehicle and approached [REDACTED] who was still squeezing the trigger of his weapon which was in the empty, slide-

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lock condition. Officer Lopez handcuffed [REDACTED] and Sergeant Cascone radioed for an ambulance and backup. Officer Lopez guarded [REDACTED] weapon until it could be recovered for the ensuing investigation. (Att. 83)

CONCLUSION AND FINDINGS:

This investigation found that the use of deadly force by the involved officers was in compliance with Chicago Police Department policy. According to the Chicago Police Department's General Order 02-08-03, III:

- A. "a sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary:
1. to prevent death or great bodily harm to the sworn member or to another person, or;
 2. to prevent an arrest from being defeated by resistance or escape and the sworn member reasonably believes that the person to be arrested:
 - a. has committed or has attempted to commit a forcible felony which involves the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm or;
 - b. is attempting to escape by use of a deadly weapon or;
 - c. Otherwise indicates that he or she will endanger human life or inflict great bodily harm unless arrested without delay."

The officers in this incident were confronted with a sudden, blitz-like attack by [REDACTED] firing a handgun at the lead vehicle. Evidence supporting the officers' accounts of the incident includes a fired bullet from [REDACTED] weapon recovered from a front tire of the lead vehicle, bullet holes in the windshield of that vehicle, and a shattered front passenger window of the same vehicle. A fired bullet core and jacket fragment consistent with the caliber of [REDACTED] weapon were recovered from inside the lead vehicle. [REDACTED] empty weapon and 16 expended casings fired from it were recovered. Officer Belcher fired in response the direct threat to his life and that of Sergeant Cascone. Officer Gonzalez fired in response to [REDACTED] continued firing at the officers in the lead vehicle.

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Investigator Michael Goldston, #109/IPRA

Approv'd

Supervisor Patrick Querfurth/IPRA

